

## ICO consultation on the draft right of access guidance

The right of access (known as subject access) is a fundamental right of the General Data Protection Regulation (GDPR). It allows individuals to find out what personal data is held about them and to obtain a copy of that data. Following on from our initial GDPR guidance on this right (published in April 2018), the ICO has now drafted more detailed guidance which explains in greater detail the rights that individuals have to access their personal data and the obligations on controllers. The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the exemptions that are most likely to apply in practice when handling a request.

We are running a consultation on the draft guidance to gather the views of stakeholders and the public. These views will inform the published version of the guidance by helping us to understand the areas where organisations are seeking further clarity, in particular taking into account their experiences in dealing with subject access requests since May 2018.

If you would like further information about the consultation, please email [SARguidance@ico.org.uk](mailto:SARguidance@ico.org.uk).

Please send us your response by 17:00 on **Wednesday 12 February 2020**.

### Privacy statement

For this consultation, we will publish all responses received from organisations but we will remove any personal data before publication. We will not publish responses received from respondents who have indicated that they are an individual acting in a private capacity (e.g. a member of the public). For more information about what we do with personal data [see our privacy notice](#).

Please note, your responses to this survey will be used to help us with our work on the right of access only. The information will not be used to consider any regulatory action, and you may respond anonymously should you wish.

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. [You can read their Privacy Policy.](#)

Q1 Does the draft guidance cover the relevant issues about the right of access?

- ☐ Yes
- ☒ No
- ☐ Unsure/don't know

If no or unsure/don't know, what other issues would you like to be covered in it?

Guidance around how to deal with mixed personal data in the context of an employer/employee relationship (particularly when, for example, one employee is expressing their views about another, in the context of a grievance or an investigation, and often with the expectation of confidentiality).

Q2 Does the draft guidance contain the right level of detail?

- ☐ Yes
- ☒ No
- ☐ Unsure/don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

While the guidance has certainly clarified some points, we have found that it has created some confusion around ID verification and timescales for the response.

1. Can we ask for ID?

Note that page 21 draft guidance states: *"If the requested information is not sufficient and you need to take further steps to verify the individual's identity, the timescale for responding begins once you have completed the verification. **However, this only applies in exceptional circumstances and generally the timescale for responding to a SAR begins upon receipt of the requested information.**"*

The text in bold is somewhat ambiguous. Further clarity around this point and guidance around what is considered 'exceptional circumstances' would be useful.

2. Can we clarify the request?

Page 23 of the draft guidance provides that "you may ask an individual to specify the information or processing activities their request relates to before responding to the request. **However, this does not affect the timescale for responding – you must still respond to the request within one month.**"

This is substantially different to the ICO's previous position and may pose some challenges for those responding to DSARs where the precise scope of the information sought by the DSAR is unclear.

Q3 Does the draft guidance contain enough examples?

- ☐ Yes
- ☒ No
- ☐ Unsure/don't know

If no or unsure/don't know, please provide any examples that you think should be included in the draft guidance.

Following on from comments in Q1 - specific examples referencing the employer/employee relationship in the context of a complaint (involving mixed personal data) would be useful



Q4 We have found that data protection professionals often struggle with applying and defining 'manifestly unfounded or excessive' subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

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Q5 On a scale of 1-5 how useful is the draft guidance?

- 1 – Not at all useful  
☐
- 2 – Slightly useful  
☐
- 3 – Moderately useful  
☐
- 4 – Very useful  
☒
- 5 – Extremely useful  
☐

Q6 Why have you given this score?

The guidance is easy to read and provides much needed clarification on the SAR process

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?

- Strongly disagree  
☐
- Disagree  
☐
- Neither agree nor disagree  
☐
- Agree  
☒
- Strongly agree  
☐

Q8 Please provide any further comments or suggestions you may have about the draft guidance.

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Q9 Are you answering as:

- ☐ An individual acting in a private capacity (eg someone providing their views as a member of the public)
- ☐ An individual acting in a professional capacity
- ☒ On behalf of an organisation
- ☐ Other

Please specify the name of your organisation:

Aon

What sector are you from:

Financial Services

Q10 How did you find out about this survey?

- ☐ ICO Twitter account
- ☐ ICO Facebook account
- ☐ ICO LinkedIn account
- ☒ ICO website
- ☐ ICO newsletter
- ☐ ICO staff member
- ☐ Colleague
- ☐ Personal/work Twitter account
- ☐ Personal/work Facebook account
- ☐ Personal/work LinkedIn account
- ☐ Other

Thank you for taking the time to complete the survey.